

## LUCIANO DI FRANCO

JUNE 30, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H.R. 2944]

The Committee on the Judiciary, to which was referred the bill (H.R. 2944) for the relief of Luciano Di Franco, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of a crime involving moral turpitude in behalf of the son of lawful permanent residents of the United States.

#### STATEMENT OF FACTS

The beneficiary of the bill is a 33-year-old native and citizen of Italy, residing in that country with his wife and their two minor children. A first preference petition was approved in his behalf in October of 1952, as a specialist in ironwork. His parents and a sister are lawfully resident aliens in the United States and another sister is a U.S. citizen. He has been found ineligible to receive a visa because of a conviction for continued corruption of a minor in Italy in 1951. Upon appeal, the sentence to imprisonment was reduced from 2 years to 9 months. A report from the Director of the Visa Office, Department of State, indicates that the beneficiary enjoys a good reputation in his community and that he is of good conduct morally.

A letter, with attached memorandum, dated June 4, 1958, to the chairman of the Committee on the Judiciary of the House of Representatives from the Commissioner of Immigration and Naturalization with reference to H.R. 9941, which was a bill pending in the 85th Congress for the relief of the same alien, reads as follows:

U.S. DEPARTMENT OF JUSTICE,  
IMMIGRATION AND NATURALIZATION SERVICE,  
*Washington, D.C., June 4, 1958.*

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 9941) for the relief of Luciano Di Franco, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the Washington, D.C., office of this Service, which has custody of those files.

The bill would waive the provisions of the Immigration and Nationality Act, which exclude from admission into the United States aliens who have been convicted of a crime involving moral turpitude, or aliens who admit having committed such a crime or acts which constitute the essential elements thereof, and would authorize the issuance of a visa to the beneficiary and his admission to the United States for permanent residence, if he is otherwise admissible.

The bill limits the exemption granted the beneficiary to grounds for exclusion known to the Department of State or the Department of Justice prior to the date of its enactment.

Sincerely,

J. M. SWING, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE LUCIANO DI FRANCO, BENEFICIARY OF H.R. 9941

Information concerning this case was obtained from Mr. Philip Finelli, the beneficiary's brother-in-law.

The beneficiary was born on December 26, 1926, at Roseto, Province of Foggia, Italy, and is a citizen of that country. He completed 5 years of schooling in Italy. He thereafter served an apprenticeship and was qualified as a specialist in ironworking at Roseto, Italy, which trade he practiced for 10 years. He is presently associated with his father-in-law in a retail specialty store. The beneficiary married Lidia Goglia on April 25, 1954, at Caserta, Italy. Two children were born of this marriage. Pompeo was born on May 1, 1955, and Clementine was born on October 3, 1957, at Pucianella, Caserta, Italy. Mr. Finelli stated that he has no knowledge of the subject's present income or assets. The beneficiary's father, mother, two brothers, and one sister have been admitted to the United States for permanent residence and are presently residing at 4921 Western Avenue NW., Washington, D.C. Another sister, the interested party's wife, is a naturalized U.S. citizen.

Philip Frank Finelli, the interested party in this case, was born on November 17, 1913, at Roseto, Foggia, Italy. He derived U.S. citizenship through his father, a naturalized U.S. citizen. Mr. Finelli married Rosaria Di Franco on April 3, 1947, at Roseto, Italy. Three sons were born of this

marriage in the United States. Mrs. Finelli acquired U.S. citizenship through naturalization in the U.S. District Court for the District of Columbia in 1949. Mr. Finelli is the owner of the District Ornamental Iron Works, Washington, D.C., which is valued at \$90,000. His other assets consist of his home which is valued at \$27,000 and real estate which is valued at \$4,000. Mr. Finelli has indicated that if the beneficiary is admitted to the United States he will provide employment for him with his firm.

Mr. Finelli had served in the U.S. Navy during World War II and is a member of the American Legion and Veterans of Foreign Wars. Although he indicated that he was never arrested, the records of the Metropolitan Police Department, Washington, D.C., reflect that Philip Frank Finelli was arrested on September 6, 1950, for violation of the building and ground regulations. He was charged with maintaining a leaky sewer, waste pipe, and water closet on the second floor of 727 Fourth Street NW. He was fined \$25 for this offense.

Mr. Finelli stated that he filed a visa petition on behalf of the beneficiary for his classification as a first preference quota immigrant whose services were urgently needed in the United States. This petition was approved by this Service on October 9, 1956. However, the Department of State refused to issue a visa because the beneficiary had been convicted of a crime involving moral turpitude. The court records at Naples, Italy, revealed that the beneficiary was convicted on June 11, 1951, of continued corruption of a minor under article 530 of the Italian Penal Code and that, upon appeal, sentence to imprisonment was reduced from 2 years to 9 months which the court decreed fully remitted by virtue of a Presidential decree. The committee may desire to request the Bureau of Security and Consular Affairs, Department of State, to secure information in this connection.

A letter, dated January 29, 1958, to the chairman of the Committee on the Judiciary of the House of Representatives from the Director of the Visa Office, U.S. Department of State, reads as follows:

DEPARTMENT OF STATE,  
Washington, January 29, 1958.

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives.*

DEAR MR. CELLER: I refer to your letter of January 15, 1958, requesting a report in the case of Luciano Di Franco, beneficiary of H.R. 9941, 85th Congress, introduced by Mr. Berry on January 13, 1958.

A report dated June 18, 1957, received from the American consulate general at Naples, Italy, indicates that Luciano Di Franco, born in Roseto Valfortore in 1926, was found ineligible to receive a visa under section 212(a)(9) of the Immigration and Nationality Act because of his conviction on June 11, 1951, by the court of appeals of Bari for continued corruption of a minor under article 530 of the Italian Penal Code.

It is the Department's view that the offense of which Mr. Di Franco was convicted is comparable to the crime of statutory rape, also known as carnal knowledge, which constitutes a crime involving moral turpitude within the meaning of section 212(a)(9) of the Immigration and Nationality Act. The Department is also of the opinion that the comparable crime as stated in section 2801 of title 22, District of Columbia Code, is classifiable as a felony as defined in section 1(l), title 18, United States Code. Consequently, Mr. Di Franco would not be entitled to relief under section 4 of Public Law 770, 83d Congress, 2d session.

According to presently available information, there is no reason to believe that Mr. Di Franco would be ineligible to receive a visa in the event the bill is enacted.

Copies, in duplicate, of the court records and the pertinent provision of the Italian Penal Code, with translations, are enclosed herewith.

Sincerely yours,

JOSEPH S. HENDERSON,  
*Director, Visa Office.*

A letter dated November 19, 1959, to the chairman of the Immigration and Nationality Subcommittee of the Committee on the Judiciary of the House of Representatives from the Director of the Visa Office, U.S. Department of State, with reference to the bill reads as follows:

DEPARTMENT OF STATE,  
*Washington, November 19, 1959.*

HON. FRANCIS E. WALTER,  
*Chairman, Subcommittee No. 1,  
Committee on the Judiciary, House of Representatives.*

DEAR MR. WALTER: I refer to your request for a report regarding certain aspects of the case of Luciano Di Franco, beneficiary of H.R. 2944, 86th Congress.

According to information received from the American consulate general at Naples, Italy, the beneficiary consistently stated that his residence was and always had been in the Province of Foggia. Consequently, a local investigation was conducted in that Province. The consulate general received subsequent information to the effect that the beneficiary had been residing at Sala, Province of Caserta, for the past 6 years. In view thereof, it became necessary to have a local investigation in Caserta, which occasioned some delay in the matter. The results of the investigation indicate that the beneficiary is of good conduct morally, civilly, and politically, and that his reputation in the community is good.

In addition to the foregoing information, it appears that the beneficiary married Lidia Goglio on April 25, 1954, and that two children, Pompeo and Clementina, were born to them on May 1, 1955, and October 1, 1958, respectively, at Puccianiello di Caserta. The beneficiary completed 5 years of elementary school. During 1949 and 1950 he was an apprentice ironworker, and since that time he has worked on his own. In his spare time he works as a driver of cars. Because of a weak constitution, he was excused from military service on medical grounds. An examination conducted on July 30, 1959, showed the beneficiary to be medically eligible to receive a visa.



Mr. Di Franco was the beneficiary of an approved first preference petition filed on October 8, 1956, but which has expired. Should the bill be enacted, and if the first preference petition should be revaluated, it appears that nonquota status would be available under the provisions of section 12 of the act of September 11, 1957.

Should you desire any further information regarding the matter please let me know.

Sincerely yours,

JOSEPH S. HENDERSON,  
*Director, Visa Office.*

Congressman E. Y. Berry, the author of the bill, submitted the following statement in support of his bill:

Luciano Di Franco, an Italian national, has been denied a visa to the United States because of his conviction of a crime involving moral turpitude resulting from a boyhood indiscretion with his 15-year-old fiance. Di Franco was not imprisoned for this violation and, in fact, received a Presidential pardon which restored him to full rights as an Italian citizen.

The facts involved in the alleged crime are as follows:

1. Di Franco and his fiance had been engaged for a year. Wedding plans had been postponed because the girl was only 15 years of age. The relationship between the young people had been encouraged by the girl's family, who were very poor. Di Franco's family was in a comparatively higher financial status.

2. It is my understanding Di Franco had been blackmailed by the girl's family, and when he refused to furnish more money, the girl's mother on July 3, 1946, filed a complaint against him, accusing him of having sexual intercourse with her daughter. No complaint was filed by the girl. The statutory age of consent for females in Italy is 16.

3. Di Franco appealed the original sentence of 2 years, which was then reduced to 9 months. This reduced sentence was fully remitted by Presidential decree (pardon) No. 930, dated December 23, 1949. Di Franco was restored to full rights of an Italian citizen and did not serve any time for this violation.

I believe there is good reason to seriously question whether or not a crime actually was committed in this instance. It could very easily be that an impoverished mother recognized a possible source of money by enticing a young boy and later blackmailing him and his family. Failing to receive money after a time, she went to court in the hope of receiving an award of damages. The Italian courts later fully pardoned the youth, and his record in all other respects is completely clear. Yet the stigma of this charge has remained on his records and prevented him from receiving a visa through normal channels.

I sincerely believe the admission of Luciano Di Franco as a permanent resident to the United States will benefit this country. He is a skilled blacksmith and ironworker. The U.S. Department of Labor has issued a clearance order for him and certified that "qualified ironworkers are not avail-

able within the United States for referral to the employer by the employment office."

A job is awaiting Di Franco in the District of Columbia at the District Ornamental Iron Works, a progressive, expanding business owned by his brother-in-law, Philip Finelli. It is certain he would not become a public charge.

Di Franco's father, mother, two brothers, and two sisters have been admitted to the United States for permanent residence. Several members of the family have had military service with the U.S. Government, and all are loyal, hard-working individuals.

I understand that neither the State Department nor the Immigration and Naturalization Service has objected to the passage of H.R. 2944, and Di Franco is, in all respects, otherwise qualified for admission to the United States as a permanent resident.

Thank you for the opportunity to appear before your subcommittee, and your sympathetic consideration of this legislation will be sincerely appreciated.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2944) should be enacted.

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